

ATTACHMENT A

STIPULATION OF FACTS

The undersigned parties stipulate and agree that if this case had proceeded to trial, this Office would have proven the following facts beyond a reasonable doubt. The undersigned parties also stipulate and agree that the following facts do not encompass all of the evidence that would have been presented had this matter proceeded to trial.

At all times relevant to the conduct described below, **TIMOTHY LAWRENCE DAY** ("**DAY**") was a resident of Rockville, Maryland. Between on or about May 2, 2017 and in or about November 2018, in the District of Maryland, **DAY** knowingly possessed material that contained an image of child pornography, as defined in Title 18, United States Code, Section 2256(8), which had been mailed, shipped, and transported using any means and facility of interstate and foreign commerce and in and affecting interstate and foreign commerce by any means, including by computer, and which was produced using materials that had been mailed, shipped, and transported in and affecting interstate and foreign commerce by any means, including by computer, all in violation of Title 18, United States Code, section 2252A.

On May 2, 2017, while in Rockville, Maryland, **DAY** purchased and downloaded a file called RUBYSCRIPT27 from a website (referred to herein as "Website M"). The file that **DAY** downloaded from Website M contained visual depictions of child pornography, as defined in Title 18 United States Code Section 2256(8). **DAY** downloaded the file knowing of the sexually explicit nature of the material. The file contained visual depictions of an actual minor engaged in sexually explicit conduct.

The file RUBYSCRIPT27 contained the following three videos depicting a known and identified victim of child exploitation:

******¹ Hardcore Fuck & Suck-26m46s.avi** – a video file that is 26 minutes and 46 seconds long and depicts a naked prepubescent female removing the shorts and underwear of an adult male. The prepubescent female then uses her right hand to masturbate and fondle the erect penis of the adult male who is lying on the floor. The prepubescent female performs oral sex on the adult male and the adult male performs oral sex on the prepubescent female. The prepubescent female sits on the erect penis of the adult male and rubs her vagina on the erect penis while the adult male fondles and digitally penetrates the prepubescent female's anus.

****** 9yo.avi** – a video file that is one hour and 52 seconds long and depicts a naked prepubescent female posing in various positions that expose her genitalia to the camera. At one point in the video, the prepubescent female uses her hands to fondle her exposed genitalia.

¹ Portions of the titles of the images described in this Statement of Facts have been replaced with asterisks to protect the identity of the child victim.

****** 9yo (49m04s,nude, 'After shoots 4 and 5').mpg-** a video file that is 49 minutes and 3 seconds long and depicts a prepubescent female and a naked adult male. The prepubescent female uses her hands and mouth on the adult male's penis. The adult male rubs his erect penis on her vagina and there is mutual oral sex. The adult male digitally penetrates the prepubescent female's anus.

The file RUBYSCRIPT27 contained videos involving a prepubescent minor who had not yet attained the age of 12 years.

On November 7, 2018 and again on November 19, 2018, law enforcement officers executed search warrants at **DAY's** residence in Rockville, Maryland. **DAY** was present during the execution of both search warrants. During the November 7, 2018 search warrant, law enforcement officers seized a number of electronic devices that **DAY** used to facilitate the receipt and possession of child pornography, including the following: (1) an HP Slimline desktop computer containing a 1TB Toshiba DT01ACA1 hard drive, s/n: X7KZ1VYNS (2) a white Bates thumb drive; and (3) a black 4GB MicroCruzer thumb drive. Agents also discovered a duffel bag in **DAY's** bedroom closet that contained rope, lubricant, condoms, and erectile dysfunction medicine.

A forensic analysis of the electronic devices seized from **DAY's** residence revealed at least 55 images and one video depicting prepubescent children engaged in sexually explicit conduct. One file is an image depicting a prepubescent female with her hand and her mouth on the genitalia of a male animal. This image portrays sadistic conduct. In addition, there was a link file found on **DAY's** computer indicating that he had accessed one of the above-described RUBYSCRIPT27 videos again in August 2018. At the time **DAY** accessed this video, the video was located on a USB Drive. Additional evidence obtained during this investigation revealed that **DAY** paid for the RUBYSCRIPT27 videos using a credit card in **DAY's** name and that **DAY** received the password to unencrypt the RUBYSCRIPT27 folder containing the three videos using his personal email address.

During the investigation, law enforcement officers also executed a search warrant on **DAY's** personal email address. Based on those records, on or about December 29, 2017, **DAY** purchased "PHP Script 446," a file that contained at least seven videos plus at least 105 images depicting prepubescent children engaged in sexually explicit conduct.

In total, **DAY** received and possessed the following files that contained child pornography:

File/Device Description	# of Videos/Images Containing Child Pornography	Total Number of Images (After Conversion Under U.S.S.G. § 2G2.2(b)(7)(D))
PHP Script 446	7 Videos 105 Images	630 Images
RubyScript27	3 Videos	225 Images
Devices Seized During Search Warrants	1 Video 55 images	130 Images
TOTAL		985 Images

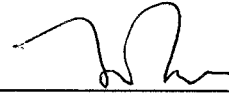
In total, **DAY** knowingly received and possessed over 600 images (factoring in conversion of each video to equal 75 images pursuant to U.S.S.G. § 2G2.2(b)(7)(D)), and used a computer, as well as an interactive computer service in order to receive, access, possess, and view the material.

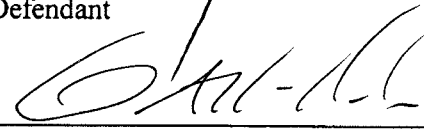
DAY's purchased and downloaded the RUBYSCRIPT27 videos from the Internet and, thus, such videos were transported in or affecting interstate or foreign commerce.

On November 20, 2002, **DAY** was convicted of possession of child pornography in the United States District Court for the District of Columbia.

SO STIPULATED:


Erin B. Pulice
Assistant United States Attorney


Timothy L. Day
Defendant


G. Allen Dale, Esq.
Counsel for Defendant